

BOARD OF ZONING APPEALS
MINUTES
MAY 24, 2005

The regular meeting of the Board of Zoning Appeals of the City of Wichita, Kansas was held at 1:30 p.m., on May 24, 2005, in the Planning Department Conference Room, Tenth Floor of City Hall, 455 N. Main, Wichita, Kansas.

The following board members were in attendance:

JAMES RUANE, BICKLEY FOSTER, DWIGHT GREENLEE, and MICHAEL GISEK.

The following board members were absent:

ERMA MARKHAM, RANDY PHILLIPS, and JOHN ROGERS.

HERB SHANER – Office of Central Inspection present.

The following Planning Department staff members were present:

SCOTT KNEBEL, Secretary.

ROSE SIMMERING, Recording Secretary.

RUANE Called the meeting to order.

Item 1

BICKLEY moved, GREENLEE seconded to approve April 26, 2005 meeting minutes.

MOTION CARRIES 4-0.

Item 2

SCOTT KNEBEL, Planning staff presented the staff report and slides. Staff recommended approval, subject to conditions, in the following staff report.

SECRETARY'S REPORT

CASE NUMBER:	BZA2005-00012
APPLICANT/AGENT:	Fouts Geller Development Company LLC c/o Jim Fouts (Owner/Applicant); Baughman Company, PA c/o Phil Meyer (Agent)
REQUEST:	Variances to reduce the parking requirement for a neighborhood swimming pool from 19 spaces to 9 spaces and to permit the parking area within the front setback
CURRENT ZONING:	"SF-5" Single Family
SITE SIZE:	0.95 acres
LOCATION:	South of 29 th Street North and east of Tyler Road (2918 N. Pepper Ridge)

JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant proposes to construct a neighborhood swimming pool for a single-family residential development located south of 29th Street North and east of Tyler Road (see attached site plan). The swimming pool is proposed to be 875.8 square feet in area, and a 1,012.5 square-foot clubhouse also is proposed. Section of IV-A.4. of the Unified Zoning Code (UZC) requires that neighborhood swimming pools provide one parking space for each 100 feet of pool and clubhouse area. For the subject property, the UZC requires that 19 parking spaces be provided; however, the applicant proposes to provide only nine parking spaces. A variance is required to reduce the parking requirement for the proposed neighborhood swimming pool by more than 10 percent. The applicant also proposes that a portion of the parking area be located within the front setback; however, Section IV-6. requires that the parking area be located outside the front setback area. The parking area may be permitted within the front setback by administrative adjustment, but it also may be permitted by granting a variance, which the applicant has requested in order to save time on the project. The applicant has submitted the attached written statement to justify the requested variances.

ADJACENT ZONING AND LAND USE:

NORTH	“SF-5” Open space reserve
SOUTH	“SF-5” Single-family residential lot
EAST	“SF-5” Single-family residential lot
WEST	“SF-5” Single-family residential lot

The five conditions necessary for approval apply to all variances requested.

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the neighborhood swimming pool and associated clubhouse are larger than typically would be located within a residential development of the size that it will serve. Therefore, the residences served by the pool will be located closer to the pool than usual, and users of the pool will be more likely walk to the pool than drive, thus supporting the proposed parking area.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variances requested will not adversely affect the rights of adjacent property owners, inasmuch as the users of the pool are the owners of the adjacent property who desire the pool as a neighborhood amenity. Additionally, sufficient on-street spaces are available for occasional overflow parking situations, and the nearest on-street spaces are located beside and not in front of nearby residential lots.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations constitutes an unnecessary hardship upon the applicant, inasmuch as requiring the strict compliance with the parking regulations would entail significant expense for a neighborhood amenity to provide parking spaces that are unnecessary.

PUBLIC INTEREST: It is the opinion of staff that the requested variances would not adversely affect the public interest, inasmuch as the public has an interest in preserving common open space within neighborhoods instead of paving areas for parking spaces that are unnecessary.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variances requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the parking requirements of the zoning regulations are not appropriate in all cases. Therefore, variances to relieve parking requirements are permitted if proper justification is available. The zoning regulations attempt to provide sufficient parking to meet the demand of the use. The use of the property requires less than the typical number of parking spaces since the neighborhood swimming pool serves a smaller than typical area, thus resulting in a greater number of people walking to the pool than typical.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that variances to reduce the parking requirement for a neighborhood swimming pool from 19 spaces to 9 spaces and to permit the parking area within the front setback be GRANTED, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan.
2. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be completed within one year from the date the variance is granted unless such time is extended by the Board.
3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

FOSTER This monument sign will be 35 feet high?

KNEBEL That is correct.

FOSTER Is 35 feet allowed in that area?

KNEBEL That is correct. Thirty-five feet is the maximum permitted height for this particular property, based on the amount of frontage they have, and the number of signs they will have.

FOSTER We haven't had any cases recently in the last few months out that way. Have you made any comparisons to any other signs? Is that about what we have been doing?

KNEBEL The City of Wichita modified its Sign Code within the last year or a little more ago to provide some flexibility administratively for sign height in areas where you have freeway overpasses, and those types of things. We have done some changes to permit taller signs as a result of the constructions of these freeway overpasses at Tyler and Maize. There is a billboard sign on the south side of Kellogg and Tyler that was allowed to be raised. The Quik-Trip sign at Kellogg and Maize is taller than what normally would be permitted due to the existence of the freeway overpass.

FOSTER Didn't it used to be 30 feet or something like that?

KNEBEL The standard minimum is 25 feet, and then you can increase that up to 35 feet based on the amount of frontage that you have.

FOSTER You are talking about the new standard right?

KNEBEL That particular standard did not change. The standard that changed pertains to height adjacent to overpasses, and permits administrative increases in height to a maximum of 20 feet above the height of the highest railing. We have been typically granting signs that are permitted to be at the base of the freeway railing.

GREENLEE Scott, you said 20 feet above the highest railing?

KNEBEL Yes, and it is a point perpendicular to the sign face itself, and we have had several requests for adjustments where they have asked for the maximum 20 feet but it was really in our opinion more than what they needed, and we have approved something less than that. Something that allows the base of the sign to be at the height equal to the highway railing, because most signs are not 20 feet from top to bottom. This one is an exception but most of them are not.

GREG FERRIS, FERRIS CONSULTING Mid American Credit Union desire is to really have the most attractive venue that they can for their customers, and to attract new customers to their facilities. I believe this is a very attractive sign. I believe that their current monument was done very well, and this is done in the same light, and the idea is to have a very upscale monument sign, however with the grade being raised the whole purpose of a sign is visibility, and if you can't be seen then you can be effective. They would have the opportunity to put a pole sign, and we know that pole signs are not as appealing as monument signs, and I think what they have done here is a positive.

RUANE Can you show us at that slide what constitutes the 230 feet of the message area versus the monument part of the sign.

FERRIS If we ran a pole sign through here and just put these different segments, so if we just attached this message to a pole, you don't count the pole, but when you have a monument, you count the monument as part of the sign. So that is where the difference comes in between the 230 and 486 feet is. These are really not large faces as it seems when you look at the sign in its entirety as a sign but it is a large sign as it sets.

RUANE So the entire 35-foot height is considered as part of the sign?

FERRIS Right, it barely extends above the top of the reader board.

RUANE But there to the ground?

FERRIS The 35 feet itself would be from the very top of the sign to the ground.

KNEBEL I think the question you are asking, you don't count the entire monument, the whole 35 feet toward the square footage but you do count from the top to the very bottom of the sign message and all of the black area that surrounds its.

FERRIS The 400 feet would be from here to here and from here to here. The 230 feet would be these individual messages, and I just did that as a comparison to show what you could do at a site like this, and be able to do two of those but this is just one sign, and I think it meets the Code even better than what we would be allowed to do, and that is why we asked for the variance.

FOSTER I will agree that you need a sign that people can see. The idea of all these message signs are going to be a little hard to see sometime, and it is a trend that I don't know that we can buck but it takes away from the tentativeness at the same time, but it seems to be a trend.

RUANE You mean the LED reader board type of sign?

FERRIS If done properly those can be effective and not distractive. It is when they are not timed properly. There are formulas that they use.

FOSTER moved GREENLEE seconded, That the Board accept the findings of fact as set forth in the Secretary's Report; and that all five conditions set out in Section 2.12.590(b) of the City Code as necessary for the granting of a variance have been found to exist and that the variance be granted subject to the conditions set out in the Secretary's report.

MOTION carries 4-0.

Item 3

HERB SHANER OCI report. BZA 2003-44 - USD 259 c/o Joe Hoover, owner/applicant) pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to Section III-C.5.f.(4)(d)(3) of the Unified Zoning Code pertaining to the intensity and occupancy of buildings located within the Airport Overlay District on property zoned "SF-5" Single-family Residential. Generally located at the southwest corner of Gouverneur and Apache Drive. They have met all requirements.

KNEBEL This was an expansion of a school near McConnell and they added a library and other spaces that exceeded the 30% expansion of non-conforming use.

SHANER Clark Elementary was the name of the school.

Meeting adjourned 1:54 p.m.